

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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HEATHER SIMCAKOSKI,  
PERSONALLY AND AS SPECIAL  
ADMINISTRATOR OF THE ESTATE  
OF JASON SIMCAKOSKI, and  
ANAYA SIMCAKOSKI,

Plaintiffs,

v.

Case No.: 16-cv-591

UNITED STATES OF AMERICA,

Defendant.

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ORDER APPROVING SETTLEMENT

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The above-captioned action having come on for consideration by the Court as to the reasonableness of a settlement between the United States of America and Heather Simcakoski, individually and as Mother and Natural Guardian of Anaya Simcakoski, a minor, and as Administrator of the Estate of Jason Simcakoski. Plaintiffs appeared individually and through counsel of record. Defendant United States of America appeared through its counsel.

The complete and precise terms and conditions of the settlement are set forth in the Stipulation For Compromise Settlement And Release Of Federal Tort Claims Act Claims Pursuant To 28 U.S.C. § 2677 (hereinafter "Stipulation For Compromise"), attached as Exhibit "A." The Court has reviewed the Stipulation For Compromise. The Court is fully informed of the specifics of the full and final terms and conditions of the settlement. The Court finds that this settlement is fair, reasonable, and in the best interests of the minor and Estate. The Court

additionally understands that this settlement is contingent upon the satisfaction of the terms set forth in Exhibit A, including the approval of the settlement by the Attorney General on behalf of the United States, the approval of the settlement by a court of competent jurisdiction on behalf of the minor and Estate, and a release and waiver in favor of the United States by any State, public entity, private entity, or individual with respect to any and all claims any such State, public entity, private entity, or individual may have now or in the future against the United States (and its agents, servants and employees) arising out of the subject matter of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the settlement, as set forth in Exhibit A, is hereby approved. It is further Ordered that Heather Simcakoski, individually and as Mother and Natural Guardian of Anaya Simcakoski, a minor, and as Administrator of the Estate of Jason Simcakoski, is hereby authorized and required to sign the Stipulation For Compromise, along with any other documents that are necessary to consummate this settlement on behalf of plaintiffs.

IT IS FURTHER ORDERED AND, ADJUDGED, AND DECREED that the amount to be paid by the United States in settlement of this action (hereinafter "Settlement Amount") shall be distributed according to the terms and conditions of the Stipulation For Compromise attached at Exhibit A. It is further Ordered that attorneys' fees in this action shall be not more than twenty-five percent (25%) of the Settlement Amount and shall be paid as provided in the Stipulation For Compromise. Fees of the Guardian Ad Litem, if any, for legal services shall be paid out of the attorneys' fees, as approved above by the Court and not in addition thereto. It is hereby Ordered that such costs and expenses are approved and are to be paid as provided in the Stipulation For Compromise. The Court finds that plaintiffs are legally responsible for any and

all liens or claims for payment or reimbursement, including any liens or claims for payment or reimbursement by Medicaid or healthcare providers. The Court hereby Orders plaintiff, by and through her attorneys, to satisfy or resolve any and all such liens or claims for payment or reimbursement asserted by any individual or entity. The Court further Orders that plaintiff and her attorneys shall provide to the United States the information required by the Stipulation for Compromise regarding the satisfaction or resolution of such liens or claims for payment or reimbursement within the time specified in said Stipulation For Compromise. The Court further Orders that plaintiffs' attorneys shall not distribute to plaintiff any of the amount payable to her directly pursuant to the Stipulation For Compromise unless and until such liens or claims for payment or reimbursement have been satisfied or resolved, or an amount has been reserved for such payment.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiffs, upon final execution of the Stipulation for Compromise and after the payment of the settlement amount by the United States, shall cause to be filed with the Court a dismissal of these actions with prejudice, with each party bearing its own costs, expenses and fees. This Court shall not retain subject matter jurisdiction over this action or the settlement.

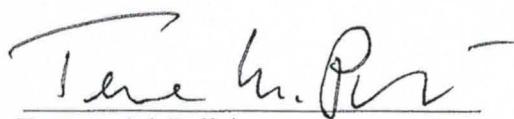
SO ORDERED, this 27<sup>th</sup> day of NOVEMBER, 2017.



Honorable James D. Peterson  
United States District Judge

APPROVED AS TO FORM AND CONTENT:

By:



Terence M. Polich  
Clifford & Raihala  
Attorney for Plaintiffs

GREGORY J. HAANSTAD  
United States Attorney

By:

  
Christian R. Larsen  
Special Assistant United States Attorney  
Attorney for the United States

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